

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

TROY PIROLOZZI,

Plaintiff,

VS.

ERIC STANBRO, ET AL.,

Defendants.

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CASE NO. 5:07-CV-798

ORDER & OPINION

[Resolving Doc. No. [150](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Plaintiff Troy Pirolozzi, as Administrator of the estate of Shawn C. Pirolozzi, Sr., moves this Court to lift the stay in this case. [Doc. [150](#).] Defendants City of Canton and Officers Eric Stanbro, William Guthrie, Jerry Fuelling, and Shawn Overdorf oppose the Plaintiff's motion. [Doc. [152](#).] For the reasons discussed below, this Court **GRANTS** the Plaintiff's motion to lift the stay.

On May 1, 2008, this Court denied the Defendant Officers’ motion for summary judgment on the basis of qualified immunity. [Doc. [144](#).] On May 12, 2008, the Officers filed a notice of appeal to the Sixth Circuit. [Doc. [145](#).] This Court granted the Defendant City of Canton’s motion to stay the case pending the Officers’ interlocutory appeal. [Doc. [147](#).]

On December 15, 2008, the Sixth Circuit issued an order dismissing the Defendants’ appeal, determining that it did not have jurisdiction to review the decision. Plaintiff Pirolozzi now asks this Court to lift the stay and set a trial date. In response, the Defendants argue that the Court should not lift the stay until the Sixth Circuit rules on the Defendants’ Petition for Panel Rehearing. The Defendants argue that the Sixth Circuit may, upon rehearing, determine that at least three of the four individual officers should be granted qualified immunity. [Doc. 152 at 2.]

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Even if the Defendants succeed on their Petition for Panel Rehearing, however, the case in this Court would still proceed against at least one officer, Officer Stanbro. The other officers would still be subject to subpoena in the case. Therefore, this Court sees no significant additional expense to proceeding at this time, without waiting for a ruling from the Sixth Circuit on the Defendants' Petition for Panel Rehearing.

For the foregoing reasons, this Court **GRANTS** the Plaintiff's motion to lift the stay. [Doc. [150](#).]

IT IS SO ORDERED.

Dated: January 14, 2009

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE